IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
Criminal Application No.824 of 2007
IN
Criminal Appeal No.383 of 2007

Sanjay Akaram Khot .. .. .. Applicant
v/s.
The State of Maharashtra. .. .. Respondent

Mr.Pratap Patil for applicant.
Mr.A.R. Patil, APP for respondent- State.

CORAM : SMT.RANJANA DESAI &
SMT.ROSHAN DALVI, JJ.
Dated : 30th July, 2007

P.C. :

1. The applicant is convicted for the offence punishable under Section 302 of the Indian Penal Code. He is sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.10,000/- . In default he is to suffer further rigorous imprisonment for one year. Criminal Appeal preferred by the

applicant is admitted. This is his application for bail.

2. We have heard the learned Counsel for the applicant at some length. It is the case of prosecution that the applicant has used a wooden stick to attack the deceased. This is a case of a single blow. There is only one head injury. He submitted that the incident had taken place as a result of sudden quarrel and, therefore, even if the prosecution's case is accepted the applicant cannot be convicted of murder. The applicant can at best be convicted for an offence punishable under Section 304 Part II of the Indian Penal Code. The learned Counsel for the applicant pointed out that original accused No.2 has been released on bail. He submitted that, in the circumstances, the present applicant be released on bail.

3. It is a fact that there is a civil litigation pending between the applicant's family and the family of the deceased. Prima facie, it appears that the incident in question had taken place on the spur of the moment out of the dispute relating to the agricultural land. The applicant has used a wooden

stick. He is said to have given a single blow on the head of the deceased. After the incident, the deceased was alive for about one and half month. The prosecution has examined three eye witnesses, out of which statement of one witness is recorded after 11 days of the incident in question. She claims to be an injured witness but there is no injury certificate on record. The evidence of discovery has been disbelieved by the trial Court. The applicant was on bail during trial.

4. In the circumstances, in our opinion, the applicant should be released on bail as it is possible to urge that Section 304 Part II is attracted to the case. However, we make it clear that this is only our prima facie opinion. Looking to the fact that there is a civil litigation between the parties, we feel that to prevent any untoward incident taking place, it is necessary to direct the applicant to stay outside Walwa Taluka while on bail. Hence, the following order:-

O R D E R

(i) The applicant- Sanjay Akaram Khot is ordered to be

released on bail in the sum of Rs.10,000/- with one or two sureties to make the amount. While on bail, the applicant will stay outside Walwa Taluka.

(ii) The applicant shall inform his place of residence to the concerned Police Station in this case and shall attend the Police Station nearest to his place of residence once in a month while on bail.

5. The application is disposed of accordingly.

(SMT.RANJANA DESAI, J.)

(SMT.ROSHAN DALVI, J.)